

**High Court of Judicature at Allahabad
(Lucknow)**

Neutral Citation No. - 2024:AHC-LKO:66708-DB

Judgment Reserved on 29.08.2024

Judgment Delivered on 26.09.2024

Reserved

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 12743 of 2014

Petitioner :- Naitik Party Thru. Pankaj Tewari And Anr.

Respondent :- Union Of India Thru. Secy. Rural Development Deptt. And 9 Ors

Counsel for Petitioner :- Chandra Bhushan Pandey,Rohit Tripathi

Counsel for Respondent :- C.S.C.,A.S.G.

Hon'ble Rajan Roy,J.

Hon'ble Om Prakash Shukla,J.

(Per: Rajan Roy, J.)

1. Heard Mr. Chandra Bhushan Pandey along with Ms. Tripti Chaturvedi, learned Counsel for the petitioners, Mr. Nishant Shukla, learned Counsel appearing for the respondent-Union of India and Ms. Isha Mittal, learned Additional Chief Standing Counsel for the State-respondents.

2. This is a Public Interest Litigation which was filed way-back in 2014 seeking following reliefs:

"(i) an order/direction/writ declaring the guidelines issued by the Department of Rural Development, Ministry of Rural Development, Government of India, Krishi Bhawan, New Delhi, dated 11.10.2014 as invalid (Annexure no.1) and issue writ in the nature of mandamus commanding the opposite parties not to implement the same;

(ii) an order/direction/writ to the State Government (opposite party nos.3 and 4) to devolve power upon the Village Panchayat in respect of all the 29 items given in the Eleventh Schedule of the Constitution.

(iii) an order/direction/writ declaring invalid the identification of village as Adarsh Gram under the SAGY scheme and utilization of public fund for such Gram on the direction of the Member of Parliament and the public fund so spent be realized from the personal assets of the member of Parliament;

(iv) an order/direction/writ to recover the public fund spent on Adarsh Gram by the MPs from his personal assets;

(v) to issue any other order or direction deemed fit and proper in the facts and circumstances of the case;

(vi) to allow this petition with cost."

3. The contention of Mr. Pandey, learned counsel appearing for the petitioner, in nutshell, was that the Sansad Adarsh Gram Yojna of the Central Government is an encroachment on the powers of the State Government and the Village Panchayat. He invited our attention to Part IX of the Constitution of India dealing specifically with - **"The Panchayat"**. He specifically invited our attention to Article 243G of the Constitution of India to submit that by the said provision power had been given to the State Government and the State Legislature in respect of Panchayats and this power and jurisdiction is exclusive, therefore, formulation of a scheme by the Central Government in respect of a matter which is exclusively

within the domain of the State Government and the Village Panchayat is in direct conflict with the provisions of the Constitution and the powers and jurisdiction of the State Government and the Village Panchayat. He also invited our attention to Schedule 11 of the Constitution of India which is referable to Part IX to drive home the point that the 11th Schedule contains the subjects on which exclusive jurisdiction has been vested upon the State Government and the Village Panchayat which is being encroached by the scheme in question framed by the Central Government. He invited our attention to various paragraphs in the writ petition and the grounds taken therein in support thereof.

4. Learned counsel for the Union of India, on the other hand, submitted that the scheme was a step in furtherance of social and economic planning pertaining to villages. Members of Parliament having been elected from the constituency to have a role to play in the development of their constituency, therefore, the scheme which, in fact, envisages realization of the dream of Mahatma Gandhi regarding a model village, is not only permissible constitutionally but also desirable. The scheme itself is in the larger public interest, therefore, to file a Public Interest Litigation

challenging the same is incongruous on the face of it. He took us through various guidelines of the scheme which are on record to submit that this is not a case where this Court should exercise its extraordinary jurisdiction under Article 226 of the Constitution of India. He also submitted that validity of Members of Parliament Local Area Development (MPLAD) scheme has already been upheld by Hon'ble the Supreme Court in the case of ***Bhim Singh vs. Union of India and others; (2010) 5 SCC 538***. The same analogy applies here also.

5. Learned counsel for the State also opposed the writ petition and submitted that there is no conflict between the Central Government and the State Government on the subject matter in issue. In fact, the scheme is to be implemented through the mechanism of the State Government and it also includes active participation and consent of the Village Panchayat. There is no conflict at all. She also took us through various paragraphs of the counter affidavit of the State Government which has also opposed the writ petition.

6. Having heard learned counsel for the parties, having perused the records and having gone through the guidelines pertaining to the scheme in question specifically, we find that the scheme

intends to translate the concept of Gram Swaraj into reality. Though the Adarsh Village is to be identified by the Member of the Parliament who has been elected by the voters of his constituency and this village has to be a part of his constituency, but not his own village. The scheme is to be implemented with the consent of the Village Panchayat and through the mechanism available with the State Government. It involves active participation of the Officials of the State Government and the Gram Panchayat. The main objectives of the scheme are as under:

"(i) To trigger processes which lead to holistic development of the identified Gram Panchayats

II. To substantially improve the standard of living and quality of life of all sections of the population through -

a. improved basic amenities

b. higher productivity

c. enhanced human development

d. better livelihood opportunities

e. reduced disparities

f. access to rights and entitlements

g. wider social mobilization

h. enriched social capital

iii. To generate models of local level development and effective local governance which can motivate and inspire neighbouring Gram Panchayats to learn and adapt

iv. To nurture the identified Adarsh Grams as schools of local development to train other Gram Panchayats"

7. Far beyond mere infrastructure and development, the scheme aims at instilling certain values in the villages and their people so that they get transformed into models for others. These values are mentioned in the scheme itself and as per the guidelines an Adarsh Gram should evolve out of people's shared vision, using their capacities and available resources to the best extent possible, duly facilitated by the Member of Parliament, the Gram Panchayat, civil society and the Government machinery. The elements of a Adarsh Gram have to be context specific. The activities to be undertaken have been given, all of which are in larger public interest.

8. Under the heading of 'strategy' in the guidelines, at point (c) it is specifically mentioned that the possible strategies are to converge resources from Central Sector and Centrally Sponsored Schemes and also other State schemes to the extent possible. The Member of Parliament would be free to identify a suitable Gram Panchayat for being developed as Adarsh Gram, other than his/her own village or that of his/her spouse. The scheme is to be

implemented through various schemes of various Ministries as is mentioned under the heading "Planning" in the guidelines.

9. Resources for the said scheme have also been mentioned under the sub-heading "Identifying the resource envelope" under the main heading "Planning" which read as under:

"The resources available need to be mapped. Broadly, they could be classified as follows:

i. Resources of fully tied schemes - centrally sponsored and State- such as IAY, PMGSY etc.

ii. Resources which are partially tied and permit flexibility of use like MGNREGS, RKVY, NRLM, NHM, S&A etc.

iii. Resources which are largely untied such as BRGF, MPLADS etc which permit a great deal of flexibility to fill in critical gaps as required. Local Area Development Scheme of MLAs may also be tapped, subject to their consent.

iv. Purely untied resources of the Gram Panchayats like own revenue, Central and State Finance Commission grants etc.

v. Resources which could be mobilised locally in cash, kind and labour.

vi. CSR funds.

The above categories of resources should be used in a convergent and integrated manner to generate maximum synergy. In respect of Central Sector/Centrally Sponsored Schemes/programmes, the Ministries/Departments concerned will take appropriate action to make suitable changes in the guidelines to enable priority to be given to the Adarsh Gram."

10. The finalization of needs is to be done through a two part process; the first part being consultation with different stakeholders particularly women Self Help Groups and farmer groups and the second part being the Gram Sabha discussion. In these fora, the summary of the results of the exercises done so far has to be presented in a simple and clear manner and the needs and priorities finalized as normatively and unanimously as possible. The draft village development plan is to be prepared by the working group set up by the District Collector consisting of Officials and outside professionals/experts which has to be presented to Gram Sabha for discussion and clearance, therefore, clearly there is no encroachment on the powers of the State Government or the Village Panchayat; rather the scheme evolved by the Central Government for social and economic planning has to be implemented through various already existing schemes of the Ministries of the Central Government and the mechanism available with the State Government, with the consent of the Gram Sabha. The roles and responsibilities in implementing the scheme have also been delineated at point no. 12. The specific role of Member of Parliament, the Government of India, the State Government and the District level being defined which clearly goes

to show that there is no conflict as such between the Central Government and the State Government in implementation of the said scheme.

11. We have also gone through the decision of Hon'ble the Supreme Court in the case of ***Bhim Singh*** (supra). We have gone through counter affidavit filed by the State Government which clearly states that the conflict stated by the petitioner is only an imagined one. The State has not opposed the scheme rather it has supported it.

12. Having gone through the scheme, we are of opinion that it is in the larger public interest and it is ironical that a Public Interest Litigation has been filed for annulling it. Moreover, no specific instance where such conflict, as has been mentioned in the writ petition, has been mentioned as having taken place in the light of constitutional provisions referred by Mr. Pandey.

13. We have also gone through the provisions of Part IX of the Constitution of India read with Schedule 11, but, then we also find that there is Entry 3 in the Concurrent List regarding social and economic planning.

14. We are of the opinion that this is not a case where this Court should exercise its powers under Article 226 of the Constitution of

India and interfere in the matter. The scheme has stood the test of time for the past 10 years and there is nothing on record to show that there are any complication, legal or otherwise in its implementation. We accordingly decline to exercise our extraordinary discretionary jurisdiction under Article 226 of the Constitution of India.

15. The writ petition is ***dismissed***.

[Om Prakash Shukla, J.] [Rajan Roy, J.]

Order Date :- 26.09.2024

Santosh/-